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FROM:

TELEPHONE NUMBER

Todd S. Parkhurst

NAME

312-578-6694

TELEPHONE NUMBER

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MESSAGE:

Application Serial No. : 09/909,630  
 Inventor: Yakov Kamen et al

FOR THE RECORD:

DATE: November 9, 2005

FAXED BY: S. Marion

AMOUNT:

# 3021944\_v4

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Assignee:** Eagle New Media

**Application No.** 09/909,630

**Filing Date:** July 19, 2001

**Confirmation No. 9979**

**First Named Applicant:** Yakov Kamen

**Docket No.: 091451.00146**

**Invention:** METHOD AND SYSTEM FOR MODIFICATION OF EPG OBJECT ATTRIBUTES

**PETITION TO REVIVE UNAVOIDABLY  
ABANDONED APPLICATION UNDER 37 CFR §1.137(a)**

**Commissioner for Patents  
Mail Stop Petition  
P. O. Box 1450  
Alexandria, Virginia 22313-1450**

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OFFICE OF PETITIONS

S I R:

This is a Petition to Revive an Unavoidably Abandoned Application and to accept a Response to Office Action (a copy of which is attached) that was due on October 19, 2004.

**Delay Unavoidable**

The abandonment of the above-captioned patent application was unavoidable. I, Todd S. Parkhurst, am the attorney for Assignee, Eagle New Media. An Office Action was mailed to the attorney of record at the time, Robert J. Depke, and my firm, Holland & Knight LLP, on July 19, 2004. Robert J. Depke and Todd S. Parkhurst continuously maintained an electronic docketing system to ensure timely responses to USPTO correspondence. In this case, a Response to the Office Action, Amendment B, was prepared and filed by Holland & Knight LLP on January 19, 2005 with a three month extension of time and the requisite fee, (See Exhibit 1) Additionally, the Response to the Office Action was filed with a duly executed Certificate of Mailing specifying that the Response was deposited with the United

States Postal Office on January 19, 2005. (*See Exhibit 2*). Significantly, we received the return postcard stamped by the OIPE at the Patent and Trademark Office, a copy of which is attached as *Exhibit 3*. In fact, a copy of the USPTO records indicates that the Response was received by the Patent & Trademark Office on January 24, 2005; however, it was not forwarded to the Examiner until October 21, 2005. (*See Exhibit 4*) Consequently, the Response was filed in a timely manner, but an inadvertent error in the USPTO resulted in a delayed transmission to the Examiner.

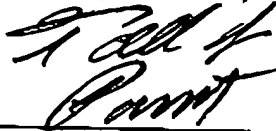
We became aware of the purported lack of Response to the Office Action on September 29, 2005 when we received a Notice of Abandonment from Examiner Antonio A Caschera. Thereafter, we diligently telephoned Examiner Caschera and faxed a copy of the post card to him so as to determine whether we would need to file this petition to revive or whether the status could simply be changed by the USPTO. After checking with his supervisor, Examiner Caschera indicated that we would indeed need to file a Petition to Revive but would not incur any fees. It is submitted that reasonable care was taken to ensure that a timely response was sent to the USPTO. This Petition to Revive has been promptly filed after learning of the expiration of the term to respond to the Office Action.

### Fees

Examiner Caschera stated that no fee need be filed with this petition under 37 CFR 1.137(a). However, authorization is hereby made to charge Deposit Account No. 50-1794 any additional fees required by this petition or credit any overpayment in the matter to Deposit Account No. 50-1794.

A duplicate of this petition is attached.

Respectfully submitted,



Date: November 9, 2005

(Att. Reg. No. 26,494)

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Todd S. Parkhurst

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being sent via facsimile to the attention of:  
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on November 9, 2005.

Date: November 9, 2005

  
Attorney for Applicant

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